IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION CASE NO. 5:24-cv-565

ABC PHONES OF NORTH CAROLINA,	
INC. d/b/a VICTRA,	
Plaintiff,))
v.) DEFENDANT MATTER BRANDS, LLC'S
STRAX AMERICAS, INC. and MATTER BRANDS LLC,) MOTION TO DISMISS)
Defendants.))

Defendant Matter Brands, LLC ("Matter Brands") pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(2), and 12(b)(6), hereby files this Motion to Dismiss Plaintiff ABC Phones of North Carolina, Inc. d/b/a Victra's ("Victra") Amended Complaint (ECF No. 1) against Matter Brands in its entirety.

Matter Brands respectfully requests that the Court dismiss this action for lack of subject matter jurisdiction pursuant to FRCP 12(b)(1) as Victra has failed to plead Matter Brands' citizenship or otherwise establish that complete diversity exists between the parties. Matter Brands further respectfully requests that the Court dismiss this action for lack of personal jurisdiction under FRCP 12(b)(2) on the grounds that neither general nor specific personal jurisdiction exists over Matter Brands in North Carolina. Matter Brands further respectfully requests that the Court dismiss this action pursuant to FRCP 12(b)(6) as Victra has failed to plead any claim against Matter Brands. Matter Brands is filing its Memorandum of Law in support of its Motion to Dismiss contemporaneously herewith. For the reasons stated above, and as fully detailed in the

accompanying Memorandum, Matter Brands requests that the Court dismiss Victra's Complaint against it in its entirety with prejudice.

WHEREFORE, Matter Brands requests that the Court grant its Motion to Dismiss Victra's Complaint against it in its entirety with prejudice.

This the 20th day of December 2024.

WYRICK ROBBINS YATES & PONTON LLP

By: /s/ Michael D. DeFrank

Michael D. DeFrank (NC Bar No. 32235)

mdefrank@wyrick.com

Mary Kate Gladstone (NC Bar No. 58161)

mgladstone@wyrick.com

4101 Lake Boone Trail, Suite 300

Raleigh, North Carolina 27607

Telephone: 919-781-4000

Facsimile: 919-781-4865

ATTORNEYS FOR DEFENDANT MATTER

BRANDS, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system, which will cause notice of this filing to be served to all counsel of record.

John R. Gardner K&L Gates LLP John.gardner@klgates.com Counsel for Plaintiff ABC Phones of North Carolina, Inc. d/b/a Victra

Daniel D. McClurg K&L Gates LLP Daniel.mcclurg@klgates.com Counsel for Plaintiff ABC Phones of North Carolina, Inc. d/b/a Victra

Michelle A. Liguori Ellis & Winters LLP Michelle.liguori@elliswinters.com Counsel for Defendant Strax Americas, Inc.

This the 20th day of December 2024.

/s/ Michael D. DeFrank
Michael D. DeFrank